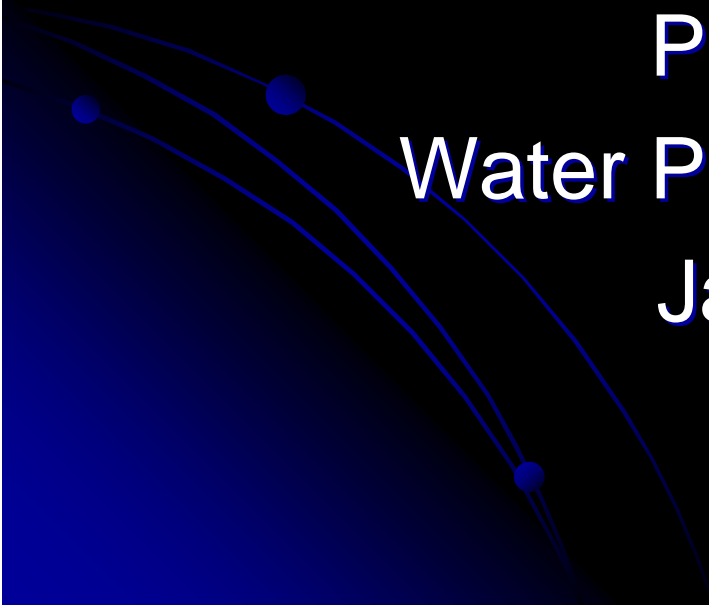


Indiana's Antidegradation Implementation Rulemaking: Past and Present

Presented to the
Water Pollution Control Board
January 9, 2008



General History of Past Antidegradation Rulemaking

- 1970s – Indiana's Stream Pollution Control Board adopted rules that established an antidegradation policy for all waters as part of the Water Quality Standards.
- 1997- Indiana's Water Pollution Control Board adopted, as part of the Great Lakes Initiative, rules that established antidegradation implementation procedures for the Great Lakes Basin ONLY.
- 1997- 2002 – IDEM made various attempts to establish a workgroup to work on antidegradation issues – these attempts failed.

General History of Past Antidegradation Rulemaking

- November 6, 2002 – first meeting of Antidegradation-OSRW workgroup set up by the Triennial Review Steering Committee
- March 1, 2003 - first notice of rulemaking – extensive comments were received and responses developed, however, some felt the Agency's responses to the first notice comments were insufficient.
- March 2003 – April 2005 – workgroup meetings were held through December 2004.
- April 1, 2005 – second notice of rulemaking. The comment period was open from April 1, 2005 through May 30, 2005. Responses to the comments were never prepared.

General History of Present Antidegradation Rulemaking

- Considering:

- the extensive amount of comments received;
- an internal review by staff who would be responsible for implementing antidegradation procedures;

IDEM determined the April 1, 2005 second noticed draft would be difficult to implement

- April 2005 – July 2007 – internal IDEM, OWQ workgroup met to take a fresh look at antidegradation implementation procedures and develop revised concept

General History of Present Antidegradation Rulemaking

- August 2, 2007 – **presentation** of revised antidegradation concept to interested parties in **NW IN** at Northwest IN Regional Planning Commission (NIRPC)
- Attendees included:
 - Kay Nelson, NW IN Forum
 - Lee Botts, the Alliance for the Great Lakes
 - Kathy Luther; Dan Gardner; Kyle Nelson; Jackie Anders, NIRPC
 - Brad Klein, Environmental Law and Policy Center
 - John Ross, NiSource
 - Kevin Doyle, Mittal Steel
 - Tom Anderson and Charlotte Read, Save the Dunes
 - Dave Behrens, U.S. Steel
 - Linda Wilson, BP
 - Jennifer Gadzala, Town of Chesterton
 - Glenn Pratt via telephone
 - Various IDEM staff

General History of Present Antidegradation Rulemaking

- August 15, 2007 - **presentation** of revised antidegradation concept **to industry reps.**
- August 22, 2007 – follow-up on presentation of revised antidegradation concept with industry reps.
- September 28, 2007 – additional follow-up on presentation of revised antidegradation concept with industry reps.
- Key attendees included:
 - Patrick Bennett, Indiana Manufacturers Association
 - Neil Parke, Eli Lilly
 - John Humes, Hoosier Energy
 - Tim Lohner, American Electric Power
 - Nat Noland, Indiana Coal Council
 - Vince Griffin, Indiana Chamber of Commerce

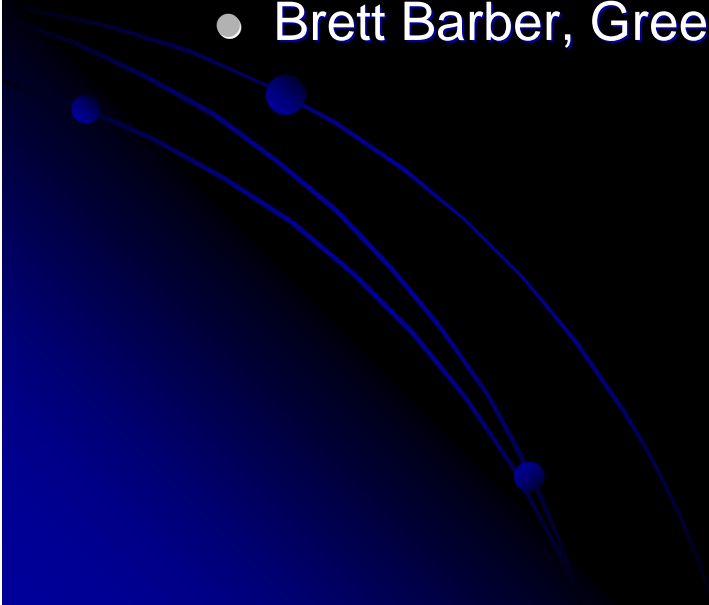
General History of Present Antidegradation Rulemaking

- September 12, 2007 - presentation of revised antidegradation concept to **Water Pollution Control Board**.
- Key Concepts:
 - de minimis
 - default antidegradation limits
 - public notification process

General History of Present Antidegradation Rulemaking

- October 17, 2007 - **presentation** of revised antidegradation concept to **environmental interest group reps.**
- November 21, 2007 – follow-up on presentation of revised antidegradation concept with environmental interest group reps.
- Key attendees included:
 - Tim Maloney, Hoosier Environmental Council
 - Rae Schnapp, Hoosier Environmental Council
 - Bowden Quinn, Sierra Club
 - Jeff Hyman, Conservation Law Center
 - Brad Klein, Environmental Law & Policy Center
 - Charlotte Read, Save the Dunes
 - Albert Ettinger, Environmental Law & Policy Center

General History of Present Antidegradation Rulemaking

- October 29, 2007 - **presentation** of revised antidegradation concept **to municipality reps.**
 - Key attendees included:
 - Jodi Perras, representing Indiana Water Environment Association and the City of Indianapolis
 - Fred Andes, Barnes and Thornburg
 - Brett Barber, Greeley-Hansen
- 

Next Steps on Present Antidegradation Rulemaking

- IDEM is working on draft rule language
 - The draft will use the framework described in the revised antidegradation concept and will take into consideration feedback from the presentations and follow-up meetings
 - Goal is to circulate draft language in February 2008
- Proposed Governor's Stakeholder meeting
 - Goal is to hold this meeting in the first quarter of 2008
- IDEM will establish a workgroup
 - The workgroup will include representatives from industry, environmental interest groups, and municipalities
 - Goal is to hold the first workgroup meeting in April 2008

Proposed Workgroup Process

- The number of workgroup meetings will be limited and each meeting will target discussion on a key concept.
- Key Concepts to discuss:
 - de minimis – April 2008
 - default antidegradation limits – May 2008
 - public notification process – June 2008

Proposed Rulemaking Timeline

(best case scenario)

- Second Notice publication: Goal – July 2008
- Comment period – minimum 30 days so would end by: Goal - August 2008
- Respond to comments – dependant on the number and nature of comments received - complete by: Goal – September 2008
- Preliminary Adoption: Goal – October 2008
- Third Notice – may require 21 day comment period - publication: Goal – November 2008
- Final Adoption – Goal – December 2008